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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,068	09/28/2000	Judith Ann Bello	XER 2 0375 D/A0601	2843
7590	09/08/2005		EXAMINER	
Albert P Sharpe III Esq Fay Sharpe Fagan Minnich & McKee LLP 1100 Superior Avenue 7th Floor Cleveland, OH 44114-2518			POON, KING Y	
			ART UNIT	PAPER NUMBER
			2624	
			DATE MAILED: 09/08/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/675,068	BELLO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	King Y. Poon	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 January 2005 and 22 June 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) Claim(s) 7-14 is/are allowed.
- 6) Claim(s) 7, 20 is/are rejected.
- 7) Claim(s) 15-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Applicant's election with traverse of the restriction requirement in the reply filed on 6/22/2005 is acknowledged. The traversal is on the ground(s) that: a) to require the election at this time in the prosecution is counter to the suggestion of MPEP 811 which advises that such requirements be made in the first action whenever possible, b) the office action offer no explanation as to how or why the species are distinct; and c) the examination of the application is not burdensome even without the restriction and that the office action has not shown separate classification or different field of search.

This is not found persuasive because: a) MPEP 811 states that "...however, it (restriction) may be made at ANY TIME before final action in the case at the discretion of the examiner." Since the first action is not prepared by the examiner who is examining (current) the case now, it is impossible for the examiner (current) to make the restriction at first action. The earliest possible time the examiner (current) could make the restriction requirement is the time before any office action has been made by the current examiner.

b) page 2 specification clearly states that "In accordance with ONE embodiment of the present invention, a method of interfacing a client with a job-based print device is disclosed. The method includes receiving client data before it reaches a print communication protocol module. Raw page description language data is distinguished from other client data and it is determined if the raw page description language includes a request which requires the attention of a specific interpreter and a temporary realignment of job management. The request is then processed. In accordance with

ANOTHER embodiment of the present invention... If the detected raw data initiates a font download..., If detected raw data initiates a Network configuration changes ...

"Another" according to Merriam-Webster Online dictionary, means "distinct from the first considered." Applicant, page 2, lines 9-14 clearly admits that the one embodiment to be considered is the embodiment disclosed on page 2 lines 9-14, which is: a method of interfacing a client with a job-based print device is disclosed. The method includes receiving client data before it reaches a print communication protocol module. Raw page description language data is distinguished from other client data and it is determined if the raw page description language includes a request which requires the attention of a specific interpreter and a temporary realignment of job management (claims 1-6).

Applicant also, on page 2, line 15 admits there are other embodiment that are distinct (another) from the first embodiment considered. The distinct other embodiment is: ... If the detected raw data initiates a font download..., If detected raw data initiates a Network configuration changes ...; disclosed on page 2 lines 20-25 (claims 7-20). Applicant elects the another embodiment of the present invention disclosed on page 2, specification (election filed on 6/22/2005); accordingly, claims 1-6 has been withdrawn from considered.

c) Font down load (species II) requires the search of area 358/1.11 and print job management (species I) requires the search of area 707/1. Accordingly, the requirement is meet in accordance with MPEP 808.02.

Furthermore, since the species (I and II) are distinct invention as admitted by the applicant, the best prior art for species I would not be the best prior art for species II. The best prior art is being located for one species would require further search for the other species and vice versa. Therefore, the search of the distinctly different species would be unduly burdensome for the examiner if restriction is not made. The examiner's reasoning is further supported by Examiner's Reitz's office action mailed on 7/2/2004. Examiner Reitz uses Reilly to reject claim 1 (species I) and uses Tanio to reject claim 7 (species II). Clearly uses/searches different references (the best references for different inventions) to reject different inventions are unduly burdensome (the examiner would conduct a better search by allocating all the time, effort, and mind possible in searching one invention instead of spending part of the time, effort and mind possible in searching one invention and the final product would be much better if the examiner is allowed to search for the best reference for an invention instead of searching different best references for different inventions). Applicant feels that examiner's Reitz's office action mailed on 7/2/2004 is simply flawed (page 11, line 10, amendment/remarks filed on 1/6/2005).

Therefore, the requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 1-6 drawn to an invention nonelected with traverse in paper filed on 6/22/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Specification***

3. The amendment to the specification has been accepted.

***Claim Objections***

4. Claim 15 is objected to because of the following informalities: "a print communication protocol module" of line 8 appears to be the "a print communication protocol module" of lines 3 and 6. The way that claim 15 is written has the meaning that "a print communication protocol module" of line 8 are different print communication protocol compare to the "a print communication protocol module" of line 3 and 6.  
Appropriate correction is required.

Claims 16-20 are objected to because they depends on claim 15.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 17, 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 17 and 20 recite the limitation "the communication protocol" in line 7 of claim 17 and lines 6 and 14 of claim 20. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 17: It is unclear "the print communication protocol module" of claim 17 is referring to the "print communication protocol module" of line 8, claim 15 or the "a print communication protocol module" of line 3 and 6, claim 15.

Regarding claim 20: It is unclear "the print communication protocol module" of claim 20, lines 6, and 14 is referring to the "print communication protocol module" of line 8, claim 15 or the "a print communication protocol module" of line 3 and 6, claim 15.

#### ***Allowable Subject Matter***

8. Claims 7-14 are allowed.

Claims 15, 16, 18, 19 would be allowable if the claim objection is corrected.

Claims 17, and 20 would be allowable if properly amended to overcome the 112 second paragraph rejection.

#### ***Remarks***

Applicant indicates that claims 1-6 readable on species II.

Applicant page 2, specification clearly states that "In accordance with ONE embodiment of the present invention, a method of interfacing a client with a job-based

print device is disclosed. The method includes receiving client data before it reaches a print communication protocol module. Raw page description language data is distinguished from other client data and it is determined if the raw page description language includes a request which requires the attention of a specific interpreter and a temporary realignment of job management. The request is then processed. In accordance with ANOTHER embodiment of the present invention... If the detected raw data initiates a font download..., If detected raw data initiates a Network configuration changes ...

Applicant's clearly indicates that the applicant does not elect this particular species (a method of interfacing a client with a job-based print device is disclosed. The method includes receiving client data before it reaches a print communication protocol module. Raw page description language data is distinguished from other client data and it is determined if the raw page description language includes a request which requires the attention of a specific interpreter and a temporary realignment of job management. The request is then processed) to be examined (election, paper filed on 6/22/2005). Therefore, the applicant does not elect to have the species that involve "if the raw page description language includes a request which requires the attention of a specific interpreter and a temporary realignment of job management" to be examined. Claims 1-6 clearly belongs to the situation that if the raw page description language includes a request which requires the attention of a specific interpreter and a temporary realignment of job management." Accordingly, claims 1-6 are withdrawn from consideration.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is 571-272-7440. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 25, 2005



KING Y. POON  
PRIMARY EXAMINER